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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,116	02/25/2004	Iris Pecker	27674	1402
7590	05/12/2006		EXAMINER	
Martin D. Moynihan PRTSI, Inc. P. O. Box 16446 Arlington, VA 22215			HUTSON, RICHARD G	
			ART UNIT	PAPER NUMBER
			1652	

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/785,116	PECKER ET AL.
	Examiner Richard G. Hutson	Art Unit 1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 32-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 32-59 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/2005.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Applicants amendment canceling claims 1-31 and adding new claims 32-59, in the paper of 2/25/2004, is acknowledged. It is noted that it appears that at the time of this amendment there were only 30 claims, however these have now all been cancelled. Claims 32-59 are at issue and are present for examination.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper."

Applicants submission of the information disclosure statement filed on 7/22/2005, is acknowledged. Those references considered have been initialed.

Specification

The disclosure is objected to because of the following informalities:

Figures 16 and 17 contain nucleotide and amino acid sequences that are not identified by a sequence identifier either in the figure itself or in the brief description of the figure. See M.P.E.P. Section

2422.02 The Requirement for Exclusive Conformance; Sequences Presented in Drawing Figures

37 CFR 1.821(b) requires exclusive conformance, with regard to the manner in which the nucleotide and/or amino acid sequences are presented and described, with the sequence rules for all applications that include nucleotide and amino

acid sequences that fall within the definitions. ...It should be noted, though, that when a sequence is presented in a drawing, regardless of the format or the manner of presentation of that sequence in the drawing, the sequence must still be included in the Sequence Listing and the sequence identifier ("SEQ ID NO:X") must be used, either in the drawing or in the Brief Description of the Drawings.

Applicants amendment of the specification describing the sequences in these figures in the paper of 2/25/2004, is acknowledged, however there are additional figures in each of the figures that applicants have not listed the appropriate sequence identifiers for.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 32 (33-38 dependent on), 39, 40, 41 (42-48 dependent from), 49 (50- 55 and 58 dependent from), 56, 59 are rejected under 35 U.S.C. § 101 because the claimed invention is directed toward non-statutory subject matter. In the absence of the hand of man, naturally occurring Insert and press F9~are considered non-statutory subject matter. Diamond v. Chakrabarty, 206 USPQ 193 (1980). This rejection may be overcome by amending the claims to contain wording such as "An isolated and purified polynucleotide, vector or host cell~ ..." .

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 33, 42 and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 33, 42 and 50 are each indefinite in that the recitation "wherein said polynucleotide is as set forth between nucleotides includes the coding region, nucleotides 594 to 2198, of SEQ ID NO: 43, as shown in SEQ ID NO: 45." Is confusing and unclear. It is thus not clear how these claims further limit the claims from which they depend.

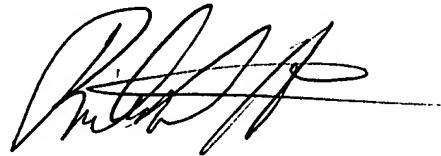
Remarks

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G. Hutson whose telephone number is 571-272-0930. The examiner can normally be reached on M-F, 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard G Hutson, Ph.D.
Primary Examiner
Art Unit 1652

rgh
5/10/2006